

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:09CR54
)	
v.)	
)	
JAMES WEEKLY,)	PRELIMINARY ORDER
)	OF FORFEITURE
Defendant.)	
_____)	

This matter is before the Court upon the United States' Motion for Issuance of Preliminary Order of Forfeiture (Filing No. 25). The Court has reviewed the record in this case and finds as follows:

1. Defendant has entered into a plea agreement whereby he has agreed to enter pleas of guilty to Counts I and III of the Indictment filed herein. Count I charges the defendant with one count of receipt of child pornography, in violation of 18 U.S.C. § 2252A(a)(2). Count III of said Indictment sought the forfeiture, pursuant to 18 U.S.C. § 2253, of an e-Machine desktop computer, Serial Number CA74B10018411, Dell laptop computer, Serial Number OD2125-48643-4AS-5958, 1 black Memorex CDR labeled “CP1 Good”, 1 Black Digital Audio CDR labeled “C.P.2 OK”, 1 silver Maxwell CDRW - labeled by Inv. Haugaard as CD1, 1 silver Maxwell CDRW - labeled by Inv. Haugaard as CD2, 1 silver Imation CDR - labeled by Inv. Haugaard as CD3, 1 black Memorex CDR - labeled by Inv. Haugaard as CD4, 1 silver Sony CDRW - labeled by Inv. Haugaard as CD5, 1 silver Imation CDR - labeled by Inv. Haugaard as CD6, 1 silver Maxwell CDRW - labeled by Inv. Haugaard as CD8, 1 silver Imation CDR - labeled by Inv. Haugaard as CD9, 1 silver Imation CDR - labeled by Inv. Haugaard as CD10, 1

silver Imation CDR - labeled by Inv. Haugaard as CD11, 1 silver Imation CDR - labeled by Inv. Haugaard as CD12, 1 silver Imation CDR - labeled by Inv. Haugaard as CD13, 1 silver Imation CDR - labeled by Inv. Haugaard as CD14, 1 blue Memorex CDR - labeled by Inv. Haugaard as CD15, 1 black Digital Audio CDR - labeled by Inv. Haugaard as CD16, and digital files and file remnants containing or depicting child pornography or visual depictions of minors in sexually explicit conduct, as defined in 18 U.S.C. § 2256, on the basis they were used or were intended to be used to facilitate said violation.

2. By virtue of said guilty plea, the defendant forfeits his interest in the above-described properties, and the United States should be entitled to possession of the same, pursuant to 18 U.S.C. § 2253.

3. The United States' Motion for Issuance of Preliminary Order of Forfeiture should be sustained. Accordingly,

IT IS ORDERED:

A. The United States' Motion for Issuance of Preliminary Order of Forfeiture is hereby sustained.

B. Based upon Count III of the Indictment and the plea of guilty, the United States is hereby authorized to seize the e-Machine desktop computer, Serial Number CA74B10018411, Dell laptop computer, Serial Number OD2125-48643-4AS-5958, 1 black Memorex CDR labeled "CP1 Good", 1 Black Digital Audio CDR labeled "C.P.2 OK", 1 silver Maxwell CDRW - labeled by Inv. Haugaard as CD1, 1 silver Maxwell CDRW - labeled by Inv. Haugaard as CD2, 1 silver Imation CDR - labeled by Inv. Haugaard as CD3, 1 black Memorex CDR - labeled by Inv. Haugaard as CD4, 1 silver Sony CDRW - labeled by Inv. Haugaard as

CD5, 1 silver Imation CDR - labeled by Inv. Haugaard as CD6, 1 silver Maxwell CDRW - labeled by Inv. Haugaard as CD8, 1 silver Imation CDR - labeled by Inv. Haugaard as CD9, 1 silver Imation CDR - labeled by Inv. Haugaard as CD10, 1 silver Imation CDR - labeled by Inv. Haugaard as CD11, 1 silver Imation CDR - labeled by Inv. Haugaard as CD12, 1 silver Imation CDR - labeled by Inv. Haugaard as CD13, 1 silver Imation CDR - labeled by Inv. Haugaard as CD14, 1 blue Memorex CDR - labeled by Inv. Haugaard as CD15, 1 black Digital Audio CDR - labeled by Inv. Haugaard as CD16, and digital files and file remnants containing or depicting child pornography or visual depictions of minors in sexually explicit conduct, as defined in 18 U.S.C. § 2256.

C. Defendant's interest in said properties is hereby forfeited to the United States for disposition in accordance with the law, subject to the provisions of 18 U.S.C. § 2253.

D. The aforementioned forfeited properties are to be held by the United States in its secure custody and control.

E. Pursuant to 18 U.S.C., § 2253, the United States forthwith shall publish for at least thirty consecutive days on an official Government internet site (www.forfeiture.gov) notice of this Order, Notice of Publication evidencing the United States' intent to dispose of the properties in such manner as the Attorney General may direct, and notice that any person, other than the defendant, having or claiming a legal interest in any of the subject forfeited properties must file a Petition with the court within thirty days of the final publication of notice or of receipt of actual notice, whichever is earlier.

F. Said published notice shall state the Petition referred to in Paragraph E., above, shall be for a hearing to adjudicate the validity of the Petitioner's alleged interest in the

properties, shall be signed by the Petitioner under penalty of perjury, and shall set forth the nature and extent of the Petitioner's right, title or interest in the subject properties and any additional facts supporting the Petitioner's claim and the relief sought.

G. The United States may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the properties subject to this Order as a substitute for published notice as to those persons so notified.

H. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture pursuant to 18 U.S.C. § 2253, in which all interests will be addressed.

DATED this 13th day of August, 2009.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court